



January 23, 2020

City of Alexandria Planning Commission
301 King Street
Alexandria, VA 22314

RE: UDR Resource Protection Area (RPA) exception request

Members of the Planning Commission,

On December 16, 2019, the Environmental Policy Commission (EPC) voted 6-5 (with 1 abstention) to support City staff's position and recommend denial of UDR's request for a Resource Protection Area (RPA) exception to Section 13-107 of the zoning ordinance for the proposed development at Newport Village, located at 4898 W. Braddock Road. This letter is intended to inform the Planning Commission (Commission) of the EPC position, and to provide some context for this result and a summary of the deliberations before the vote was taken.

The divided vote reflects some confusion and disagreement within the EPC as to what factors could or ought to be considered in the recommendation. City staff indicated that EPC was to consider only the narrow range of factors present in Section 13-119 of the zoning ordinance in making this decision, which did not include potential environmental harm at the development site, nor proposed mitigation or other environmental benefits. The EPC's recommendation to support staff's position to deny the request for an exception should therefore not be interpreted as a finding that the proposed development would be environmentally harmful, nor should this letter be interpreted as a finding of a net environmental benefit. **The EPC did not make a determination of the net environmental impact of the proposed exception.**

City staff presented five (5) conditions that must all be met in order to grant an RPA exception. The discussion and decision by the EPC centered on the first of those conditions - that "*granting the exception will not confer upon the applicant any special privileges that are denied to other property owners in the Chesapeake Bay Preservation Area (CBPA) overlay district.*" The primary concern expressed by EPC commissioners was that granting an exception to this development would set a precedent for granting exceptions to more detrimental proposals in the future, and thereby weaken the protections of the CBPA. The EPC steadfastly supports the goals of the CBPA and the use of RPAs as a tool for protecting the integrity of the city's water resources and downstream waters, including Chesapeake Bay.

Conversely, some commissioners felt that the RPA in question was not necessarily functioning as intended. An RPA is defined as "*consist[ing] of sensitive land that has either*

an intrinsic water quality value due to the ecological and biological processes such land performs, or that is sensitive to uses or activities such that the use results in significant degradation to the quality of state waters. In their natural condition, these lands provide for the removal, reduction, or assimilation of nonpoint source pollution entering the bay and its tributaries.” The RPA in question is a 100-foot buffer around a stream in the median of Beauregard Street. The land is not in a natural condition, and because the site of the development is separated from the stream by the eastbound lanes of Beauregard Street and multiple stormwater management structures, it is questionable whether the land affected by the proposed encroachment has intrinsic water quality value, or if the encroachment would result in significant degradation to water quality in the affected stream.

In summary, EPC’s vote to support staff’s position to deny the exception request reflects a view among the majority that the proposed development does not meet all five (5) statutory conditions for granting an exception, and a concern that granting an exception would create a precedent that could weaken the protections of the CBPA. The dissenting commissioners felt that an exception may be warranted since the proposed development does not appear to significantly diminish a functional resource and may provide environmental and social benefits.

Please feel free to contact me or Commission Chair Praveen Kathpal if you have additional questions about the EPC’s deliberations on this topic.

Thanks,

A handwritten signature in dark ink, appearing to read 'J. Hook III', with a stylized flourish at the end.

James (Trip) Hook III
Water Resources Specialist
Alexandria Environmental Policy Commission